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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION,

This document relates to:

ALL ACTIONS

CASE NO. 3:18-MD-02843-VC

**DECLARATION OF MARTIE
KUTSCHER IN SUPPORT OF
FACEBOOK'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL**

I, Martie Kutscher, hereby declare as follows:

1. I am an associate at the law firm of Gibson, Dunn & Crutcher LLP, counsel of record for Facebook, Inc. (“Facebook”) in the above-captioned matter. I am a member in good standing of the State Bars of California, New Jersey, and New York. I submit this declaration in support of Facebook’s Administrative Motion to Seal. I make this declaration on my own knowledge, and I would testify to the matters stated herein under oath if called upon to do so.

2. Attached as **Exhibit 1** is a true and correct redacted copy of Facebook’s Corrected Request to Approve Facebook’s Search String Proposal for Custodian Groups 1-4 (“Corrected Facebook Brief”). Attached as **Exhibit 2** is a true and correct unredacted copy of the Corrected Facebook Brief, which highlights in yellow Facebook’s proposed redactions,

3. Attached as **Exhibit 3** is a true and correct unredacted copy of Exhibit A to the Declaration of Martie Kutscher in Support of Facebook, Inc.’s Corrected Request to Approve Facebook’s Search String Proposal for Custodian Groups 1-4, which Facebook asks to file to under seal.

4. Attached as **Exhibit 4** is a true and correct unredacted copy of Exhibit B to the Declaration of Martie Kutscher in Support of Facebook, Inc.’s Corrected Request to Approve Facebook’s Search String Proposal for Custodian Groups 1-4, which Facebook asks to file to under seal.

5. Attached as **Exhibit 5** a true and correct unredacted copy of Exhibit C to the Declaration of Martie Kutscher in Support of Facebook, Inc.’s Corrected Request to Approve Facebook’s Search String Proposal for Custodian Groups 1-4, which Facebook asks to file to under seal.

6. The Corrected Facebook Brief and Exhibits A, B, and C to the Declaration of Martie Kutscher in Support of Facebook, Inc.’s Corrected Request to Approve Facebook’s Search String Proposal for Custodian Groups 1-4 include the parties’ accepted and disputed search strings. These search strings incorporate search strings that Facebook has run in other matters, including the FTC’s 2018-2019 investigation. In view of their confidential nature, the

Court ordered Facebook to provide Plaintiffs the FTC strings on an “attorneys’ eyes only” basis. *See* Dkt. 394. Publicly disclosing the search strings in the parties’ submissions would thus reveal aspects of the FTC strings that Facebook has provided Plaintiffs on an “attorneys’ eyes only” basis.

7. The search strings in that Facebook asks the Court to seal also include confidential code names, project names, strategies, business plans, confidential financial information, and the names of specific Facebook business partners. Many of the language and concepts contained in the search strings draw directly from information contained in confidential documents produced in this case. Public disclosure of the search strings would reveal this confidential information and would harm Facebook.

8. The Corrected Facebook Brief and Exhibits A, B, and C to the Declaration of Martie Kutscher in Support of Facebook, Inc.’s Corrected Request to Approve Facebook’s Search String Proposal for Custodian Groups 1-4 also include the custodians against whose files the parties propose running each string. Facebook’s prior filings indicate that most of the custodians in this action were selected from the custodians used to collect documents for the FTC’s 2018-2019 investigation. In view of the confidential nature of this information, the Court ordered Facebook to provide Plaintiffs the list of FTC custodians on an “attorneys’ eyes only” basis. *See* Dkt. 394. Publicly disclosing these custodians would reveal information Facebook provided by Court order on an “attorneys’ eyes only” basis and publicly reveal the custodians used during the FTC’s 2018-2019 investigation—which remains confidential. Public disclosure of information about the custodians would also reveal commercially sensitive information, such as which Facebook employees and departments are working on critical and highly confidential projects. Public access to such information may cause Facebook competitive harm and encourage competitors to poach employees working on confidential projects and critical issues.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 24, 2020 in Palo Alto, California.

/s/ Martie Kutscher

Martie Kutscher